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~~FEDERAL COMMUNICATIONS COMMISSION~~
OFFICE OF THE SECRETARY

May 24, 2001

Ex Parte

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W. – Portals
Washington, D.C. 20554

Re: CC Docket No. 01-88, In the Matter of Application by SBC
Communications, Inc., *et al.*, for Provision of In-Region InterLATA
Services in Missouri

Dear Ms. Salas:

This letter, which is submitted at Staff's request, principally responds to a number of questions from Commission Staff as well as to arguments raised by SWBT for the first time in its reply comments. Specifically, the letter: (1) responds to questions by the Commission Staff regarding AT&T's discussion, in its Reply Comments, of the failure of SWBT to update the records in its LMOS legacy system that SWBT uses to manage trouble tickets,¹ and responds to the discussion of the LMOS issue in SWBT's reply comments; (2) addresses SWBT's explanation in its reply comments for the methodology that it uses to compute flow-through rates; (3) discusses other aspects in which SWBT is denying parity of access to its operations support systems ("OSS"); and (4) responds to SWBT's discussion of the adequacy of the "audit" of its performance data by Ernst & Young.

I. LMOS

Staff's questions involve the results of AT&T's sampling of 54 migration orders completed between May 10 and May 14, 2001, to determine whether the corresponding LMOS records had been correctly updated. See AT&T Reply Comments at 32; Willard Reply Decl., ¶

¹ See Reply Comments of AT&T Corp. filed May 16, 2001, at 31-33 ("AT&T Reply Comments") and Reply Declaration of Walter W. Willard, ¶¶ 2-8 ("Willard Reply Decl.").

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4. Staff has asked whether any of these orders originated in Missouri. None of the 54 orders originated in Missouri; all were submitted for end-users in Texas. However, both SWBT and the Commission have stated that, because SWBT's OSS are regional in nature, the commercial experience of SWBT's OSS in Texas is relevant to the issue of whether SWBT is complying with its OSS obligations in other States in the SWBT region, including Missouri.²

Staff also asked whether the 54 orders in AT&T's sample were affected by the "system enhancement" that SWBT claims to have fully implemented on May 11, 2001, to eliminate the LMOS updating problem.³ Each of the 54 orders was a "completed" order (*i.e.*, an order for which AT&T had received a service order completion notice). AT&T has determined that, of the 22 orders which failed to reflect AT&T as the "owner" of the circuit 17 were completed on May 14, 2001 – three days *after* the alleged implementation of the system enhancement. Thus, even with the implementation of the "second part" of its enhancement, SWBT's "fix" still does not work.

The inadequacy of SWBT's "fix" was further confirmed by a review of a new sample of 49 migration orders that AT&T conducted on May 22, 2001⁴. All of these orders were completed (had received completion notices) on or after May 15. Only 18 of the 49 completed

²See *Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, Memorandum Opinion and Order released January 22, 2001, ¶¶ 108, 113-114 ("SBC Kansas/Oklahoma Order"); Joint Reply Affidavit of Elizabeth A. Ham and Brian D. Noland, ¶¶ 6-7.

³See Reply Brief of Southwestern Bell ("SWBT Reply Br.") at 42; Joint Reply Affidavit of Daniel J. Coleman, William R. Dysart, Elizabeth A. Ham, Brian D. Noland, David R. Smith, and Thomas E. Weisz, ¶ 32 ("LMOS Reply Aff."). SWBT attempts to minimize the importance of the LMOS updating problem by stressing that only AT&T and El Paso Networks/PacWest filed comments that raised this issue, while Birch Telecom (the CLEC which first raised the issue with SWBT) "did not file comments in this proceeding" but instead "chose to work collaboratively with SWBT to investigate and resolve the issue." SWBT Rep. Br. at 40 & n.33. SWBT's assertion is disingenuous. It is AT&T's understanding that Birch filed no comments because it entered into a settlement agreement with SWBT under which Birch agreed not to file comments in opposition to any application by SWBT for Section 271 authority in any of the States in its region, including Missouri. As AT&T has previously noted, however, Birch has raised the issue in proceedings before State commissions in the SWBT region. Indeed, only three weeks ago, Birch filed comments with the Texas Public Utilities Commission ("TPUC") raising the issue and asserting that SWBT's alleged prospective "fix" of the problem did not work. See AT&T Reply Comments at 32 & Willard Reply Aff., ¶ 5 & Att. 1 thereto at 2-5.

⁴To determine the orders that it would review (both for the sample described in Mr. Willard's Reply Declaration and the subsequent sample described herein), AT&T first determined all orders that were completed within a given time frame. For the sample described in the Willard Reply Declaration, the period was May 10 to May 14; for the second sample described herein, the period was May 15 to May 22. In both cases, the total universe (of orders that could be reviewed) consisted of several hundred orders. For each review, AT&T took a random sample of 10 orders for approximately every 100 orders in the applicable universe and then ran a check of the AECN to verify the "owner" of the circuit.

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orders (or less than 40 percent of the total) correctly reflected AT&T as the owner of the circuit. Of the remaining 31 orders, 10 showed SWBT as the owner, and the rest showed no owner at all.⁵

Finally, Staff asked whether AT&T has evidence contradicting SWBT's assertion that as of May 11, 2001, "SWBT completed the process of correcting the status of all the records" in the embedded base of LMOS records for UNE-P lines, and therefore "there is no longer a backlog in the LDRC of sequencing errors on CLEC UNE-P records requiring manual processing." *See* SWBT Rep. Br. at 43. Because SWBT purportedly completed this correction process less than two weeks ago, AT&T currently lacks sufficient commercial data to determine whether SWBT's representation is correct. In any event, AT&T has no way of knowing which of the LMOS records in the embedded database SWBT has "corrected," and thus cannot verify whether the corrections were in fact made. Moreover, because AT&T has no direct access to SWBT's LMOS database, AT&T has no means of determining all of the LMOS records for AT&T-served lines that were incorrect.⁶ AT&T learns that an LMOS record for a particular line has been incorrectly updated only when it submits a trouble report for that line, and SWBT responds that the number has been "ported or disconnected," even though the number is still an active account of AT&T. *See* Declaration of Walter W. Willard filed April 24, 2001, ¶ 15 ("Willard Initial Decl."). However, the results of AT&T's sampling of recently completed orders – which indicates the inadequacy of SWBT's electronic "system enhancement" – are ample cause for questioning the accuracy of SWBT's claims regarding the correction of the embedded LMOS database.

In any event, SWBT's claims that it has implemented "fixes" to its systems and to the embedded LMOS database are entitled to no weight, for a number of reasons. First, SWBT contends that it implemented the "second part" of its electronic system enhancement, and completed the correction of its embedded database, on May 11, 2001 – more than two weeks after the filing of the comments on SWBT's application. *See* SWBT Rep. Br. at 42-43; LMOS

⁵ SWBT had previously advised AT&T that, under the "fix" it described, the updating of the LMOS record would occur upon completion of the order, not upon posting. *See* Willard Initial Decl., ¶ 20. Contrary to the representations that it now makes in its reply comments, SWBT did not advise AT&T that even upon order completion, the LMOS record might not be updated correctly if there is "lag" between the time the "D" order posts to LMOS from SORD, and the time the "C" order posts from CABS. *See* SWBT Reply Br. at 43; LMOS Reply Aff., ¶ 37. Thus, based on SWBT's representations to AT&T, the high percentage of orders in AT&T's sampling that failed to reflect AT&T as the "owner" of the circuit could not have been due to such a time lag.

⁶ AT&T used SWBT's Toolbar Administration to determine the AECN (the CLEC's identifying number) on the customer service records (via Verigate) for the orders that it reviewed (described above and in Paragraph 4 of the Willard Reply Declaration) and thereby verify whether the completed order showed AT&T as the owner of the circuit. *See* Willard Initial Decl., ¶¶ 12-13 (describing identifying role of AECN). LMOS is the source of the AECN data on the customer service record. However, AT&T does not have access to the LMOS records themselves.

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Reply Aff., ¶¶ 22, 35. Any consideration of such changes would be improper under the Commission's "complete-when-filed" rule.⁷

Second, there is no evidence that the improvements that SWBT allegedly made have resolved the LMOS updating problem. To the contrary, AT&T's review of certain orders completed since the alleged implementation strongly indicates that the improvements do not work, as described above. SWBT has presented no evidence of commercial usage demonstrating that these "fixes" correct the problem, as SWBT claims.⁸ Indeed, SWBT has not even alleged (much less presented evidence) that it has performed adequate testing of the improvements to determine whether they work.⁹ For these reasons, any finding that SWBT has eliminated the LMOS updating problem would be premature. In fact, today the TPUC – clearly unwilling to take SWBT at its word – ordered both a verification of whether SWBT's alleged "fixes" to the LMOS updating problem work, and an audit of SWBT's reported performance data affected by the LMOS updating problem.

Third, SWBT's assertions regarding the claimed improvements are inherently suspect, because they are inconsistent with its prior representations. For example, SWBT now contends that it has implemented a "two-part system enhancement" that eliminates order sequencing problems: (1) an alteration of procedures for updating the LMOS database, effective March 29, 2001, under which LMOS will receive a file containing a "D" (disconnect) order after it has completed in SORD, rather than after the order is posted to the CRIS billing system; and (2) implementation of Telcordia WFA/DO Release 4.6, which provides order type as a selection criterion for sending order completion messages to SORD – and thus will ensure that completion messages will be sent to SORD in the proper sequence. SWBT Reply Br. at 42-43; LMOS Reply Aff., ¶¶ 31-33.

Prior to the filing of its reply submission, however, SWBT did not represent that its "system enhancement" included a second stage – *i.e.*, the implementation of Telcordia

⁷See *Application of Ameritech Michigan Pursuant to Section 271 to Provide In-Region, InterLATA Services in Michigan*, Memorandum Opinion and Order, 12 FCC Rcd. 20543 (1997), ¶ 51 ("Ameritech Michigan Order") (stating that "in no event" may the evidence in a BOC's reply comments "post-date[] the filing of . . . comments" on its Section 271 application).

⁸The Commission has, of course, repeatedly emphasized that commercial usage data is the most probative evidence in Section 271 proceedings as to whether a BOC's operations support systems provide nondiscriminatory access and are operationally ready. See, e.g., *Ameritech Michigan Order*, ¶ 138; *BellSouth South Carolina Order*, ¶ 97; *Second BellSouth Louisiana Order*, ¶¶ 86, 92, 100; *Bell Atlantic New York Order*, ¶¶ 53, 89; *SBC Texas Order*, ¶¶ 53, 98, 102; *SBC Kansas/Oklahoma Order*, ¶ 105.

⁹It cannot be assumed that SWBT performed adequate testing of its claimed improvements before implementing them. Although it allegedly implemented what it now characterizes as the first part of its "two-part system enhancement" on March 29, 2001, SWBT had not completed testing of the new software involved at the time it filed its application with the Commission on April 4. See AT&T Comments at 45-46 & Willard Initial Decl., ¶ 20 & n.8; SWBT Reply Br. at 42; LMOS Reply Aff., ¶ 31.

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WFA/DO Release 4.6. Instead, SWBT advised AT&T only that on March 28 it had implemented a software change that updated LMOS after the internal service order is completed (the first part of SWBT's "system enhancement") *and that this software change fully fixed the LMOS updating problem* (with the exception of the "embedded base" of LMOS records that existed prior to implementation of the software change). See Willard Initial Decl., ¶ 20 & n.8. That was also the understanding of Birch Telecom, which had also raised the problem as an issue.¹⁰ For example, in comments that it filed with the Texas PUC on March 16, 2001, Birch stated that SWBT's "permanent fix is designed to update LMOS after the *completion* of the service order, as opposed to after the posting of the service order. SWBT has indicated that if the testing completes successfully, this resolution is scheduled to go into production in early April 2001." *Id.*, Att. 4 at 7 (emphasis in original). And, only a week prior to the alleged implementation of the "second part" of SWBT's system enhancement, Birch advised the TPUC that the "fix" described in its March 16th comments "has not resolved the problem." Willard Reply Decl., Att. 1 at 3. Birch made no reference to any "second part," or any other "system enhancement," planned by SWBT. *Id.*

Similarly, prior to filing its reply comments in this proceeding, SWBT never advised the Texas PUC that its system enhancement included the implementation of Telcordia Release WFA/DO Release 4.6 as a "second part" or "second stage." In a workshop on performance measurements held before the TPUC on April 5, SWBT stated that "the *only change* that is implemented here is the fact that the LMOS database is updated based on the completed order as opposed to the posted order." Willard Initial Decl., Att. 3 at 355 (Brown) (emphasis added); see also *id.* at 353 (Brown) ("That is corrected by completion – updating a completion"). In comments that it submitted two weeks later to the TPUC regarding the effect of the LMOS updating problem on the accuracy of its reported performance data, SWBT stated:

SWBT has taken corrective action to address this issue. The LMOS database is now updated by using the completed service order rather than the posted service order. This change was implemented for all states in the SWBT region by March 29, 2001.

Id., Att. 5 at 6.

SWBT's assertion that it has fully corrected the embedded base of LMOS records is also an eleventh-hour revelation. See SWBT Reply Br. at 43; LMOS Reply Aff., ¶¶ 34-35. Prior to the filing of its reply comments, SWBT had represented to the CLECs and to the Texas PUC that it was *not* willing to correct all of the records in the embedded base, but instead was instituting a manual, order-by-order procedure that CLECs could use to have LMOS records corrected.¹¹ SWBT promised, at most, to explore possible solutions that would result in

¹⁰See Willard Initial Decl., ¶¶ 17-19 & Att. 4; LMOS Reply Aff., ¶ 13.

¹¹See Willard Initial Decl., ¶¶ 21-22; *id.*, Att. 3 at 363-364 (comments of SWBT before April 5, 2001 TPUC workshop). *id.*, Att. 4 at 7 (March 16, 2001 Comments filed by Birch Telecom with Texas PUC).

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complete correction of errors in the embedded base of LMOS records. Willard Initial Aff., ¶¶ 21, 23 & Att. 5 at 6 (SWBT's April 19, 2001 comments filed with Texas PUC). Little more than one week before SWBT allegedly completed its correction of the embedded database, Birch complained to the TPUC regarding SWBT's insistence on a manual procedure – and pointed out that SWBT had *renege*d on its prior offer to correct all of the records in that database on a “proactive” basis. AT&T Reply Comments at 33; Willard Reply Decl., ¶ 7 & Att. 1 at 3-4.

SWBT's failure to disclose or discuss the alleged improvements until its reply comments were filed on May 16 totally discredits its assertions. If SWBT's claims about the May 11 improvements were correct, SWBT undoubtedly made the decision to implement them well before the actual implementation/completion date. The fact that SWBT did not even indicate before May 16 that it *intended* to implement the WFA/DO release and correct all of the records in the embedded database strongly suggests that its claims of implementation are an exercise in wishful thinking.

Even leaving aside the timing of its claim concerning the WFA/DO release, SWBT's previous representations undermine its assertion that the new processes implemented under its two-part system enhancement “eliminate the out-of-sequence condition” that it describes as the source of the LMOS problem. *See* SWBT Reply Comments at 42-43; LMOS Reply Aff., ¶ 33. According to SWBT, with the implementation of the first part of that enhancement on March 29, “D orders are [now] sent to LMOS after completing in SORD, rather than waiting for the D order to post to CRIS, enabling them to reach LMOS prior to the C order, which LMOS still receives after it posts in CABS.” SWBT Reply Comments at 42; *see also* LMOS Reply Aff., ¶ 31. However, in its application for Section 271 authority for Texas in January 2000, SWBT asserted that *it had already made that change in its systems*:

Prior to June 1999, AT&T experienced problems testing and reporting trouble on lines for combined loop and port orders. SWBT investigated the problem and discovered that if an error prevented a CRIS (or disconnect) order from posting to completion, the Loop Maintenance Operations Systems (“LMOS”) did not process the CABS (or new) order for the combined loop and port. The CABS order processing did not occur because there was already a working line record for the TN. *In June 1999, SWBT changed programming so that LMOS no longer waits for Disconnect orders to post to completion before processing them. Disconnect orders are now processed from SORD distribution. This has allowed for LMOS to build the line record correctly 98% of the time on AT&T combination loop and port orders.*¹²

¹²Affidavit of Elizabeth A. Ham filed January 10, 2000, in CC Docket No. 00-4, ¶ 223 (“Ham Texas Aff.”) (emphasis added).

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In short, SWBT is now effectively asserting that it has just implemented a systems change that it previously claimed to have implemented more than 18 months ago.¹³

SWBT's description of the cause of the LMOS updating problem is also inconsistent with its prior statements. SWBT asserts here that the problem occurs when the "D" and "C" orders do not post in LMOS in the proper sequence. SWBT Reply Br. at 41; LMOS Reply Aff., ¶¶ 21-22. Yet, in its application for Section 271 authority in Texas, SWBT asserted that its three-order process for UNE-P migrations – which consists of a "D" order, a "C" order, and an "N" (new) order – does not affect its legacy systems, including LMOS, once they are posted in SORD: "Once a wholesale order reaches the legacy systems . . . , it is processed indiscriminately with retail orders."¹⁴ Moreover, prior to the filing of its reply comments, SWBT never advised AT&T that the LMOS updating problem was caused by improper sequencing of the "D" and "C" orders, even though AT&T has raised the LMOS updating problem as an issue with SWBT since early March 2001. Willard Initial Decl., ¶16; LMOS Reply Aff., ¶15.¹⁵

Apparently recognizing the weakness of its position, SWBT rationalizes that the LMOS updating problem has had no effect on CLECs and their end-users.¹⁶ AT&T's evidence,

¹³SWBT's reply submission is internally inconsistent in describing the effectiveness of the processes that it has purportedly implemented under its "two-part system enhancement." Although it claims that the new processes "eliminate the out-of-sequence condition" that allegedly caused the LMOS updating problems, it also acknowledges that even with proper sequencing of the "D" and "C" orders, "there can be a time lag between the time the D order posts to LMOS from SORD, and the time the C order posts from CABS." In such circumstances, the CLEC will be unable to open a trouble ticket electronically and will be required to submit the report manually to SWBT – which is precisely the same problem that CLECs experienced before the alleged implementation of the "system enhancement." See SWBT Reply Br. at 41-43; LMOS Reply Aff., ¶¶ 22, 25-26, 31-33, 37; Willard Initial Decl., ¶¶ 15, 21-22.

¹⁴ Ham Texas Aff., ¶ 197.

¹⁵ In its reply comments, the Missouri Public Service Commission appears to criticize AT&T because it did not raise the LMOS updating problem as an issue in Case No. TO-99-227. MPSC Reply Comments at 16. However, AT&T could not have raised the issue before the MPSC issued its March 6 and March 15 orders recommending approval of SWBT's application, or even before the MPSC closed its docket. The problems due to the LMOS updating errors only became apparent to AT&T in early March 2001, when it noticed that it was receiving error messages from SWBT when it tried to open trouble tickets electronically. Willard Initial Decl., ¶¶ 15-16. Only when Birch Telecom filed comments on March 16 with the TPUC did AT&T have reason to believe that these problems were caused by LMOS updating errors. *Id.*, ¶¶ 17, 19. Even after repeated inquiries by AT&T, SWBT did not acknowledge that the problems experienced by AT&T were related to "the LMOS issues" until April 6 – two days after SWBT filed its application with this Commission and four days after the MPSC closed the docket in Case No. TO-99-227. *Id.*, ¶ 18.

¹⁶See SWBT Reply Br. at 40-41; LMOS Reply Aff., ¶¶ 11, 17. SWBT's additional rationalization that it does not regard the LMOS updating problem "as an issue impacting 271 compliance" is astonishing. See LMOS Reply Decl., ¶ 19. As SWBT admits, the ability of a CLEC to open a trouble report on SWBT's electronic interfaces depends on whether the LMOS record for that line has been correctly updated. LMOS Reply Aff., ¶¶ 25-26; Willard Initial Decl., ¶¶ 13-14. If – as AT&T's evidence shows – this problem denies CLECs the same degree of electronic access to maintenance and repair functions that SWBT has in its own retail operations, and causes later provisioning

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however, shows that the LMOS updating problem has adversely affected CLECs, because it has denied them the same mechanized access to maintenance and repair functions that SWBT has in its own retail operations. Therefore, CLECs cannot achieve resolution of their customers' maintenance and repair problems with the same degree of timeliness as SWBT is able to achieve for its own retail customers. AT&T Comments at 45-46; AT&T Reply Comments at 33; Willard Initial Decl., ¶¶ 20-25. When a trouble ticket cannot be submitted due to an LMOS updating error, the CLEC must submit the report manually, even under SWBT's (purportedly) newly-implemented procedures— a process that could delay repair of the customer's service by as much as 48 hours. AT&T Reply Comments at 33; Willard Initial Decl., ¶¶ 21-22; Willard Reply Decl., ¶ 7; LMOS Reply Aff., ¶ 37. Any delay that would result in later provisioning of repair services to CLECs' customers than to SWBT's retail customers is a denial of nondiscriminatory access to SWBT's maintenance and repair functions. Although the fact that SWBT may take up to 48 hours to update the LMOS record may not always cause the repair to be delayed by an equivalent amount of time, the repair could be delayed if (for example) a SWBT representative declined to undertake the repair because it believed that the CLEC requesting the update was not the true "owner" of the loop. SWBT certainly has presented no evidence that, as a matter of course, it would fulfill a CLEC's request without questioning the CLEC's claim to ownership and, in fact, when AT&T tries to phone in trouble tickets on its UNE-P lines, it is often told by a SWBT representative that SWBT cannot process the order because its records do not reflect that AT&T owns the loop.¹⁷

Moreover, requiring CLECs to follow a manual processes exposes them and their customers to an increased likelihood of error that SWBT's retail operations, which use fully automated systems to report troubles, does not experience. The use of a manual process also adversely affects the operations of CLECs because it requires the training of numerous personnel to recognize and follow the process. As changes in personnel occur over time, the likelihood of failures in the process, and delays in the provision of service, will only increase. Willard Decl., ¶ 22.

In addition, as AT&T has demonstrated, the LMOS updating problem affects the accuracy of the performance data reported by SWBT. If a trouble report submitted by a CLEC is improperly recorded in LMOS, or is not recorded at all, the report will not be included in SWBT's reported data for trouble report rates for CLECs – thereby understating the actual rates experienced by CLECs, and overstating the trouble report rates reported by SWBT for its own retail operations. These distortions in the reported data preclude an accurate parity analysis. See AT&T Comments at 46-47; Willard Initial Decl., ¶¶ 26-27.

of repair services to CLEC customers, SWBT is not meeting its checklist obligation to provide nondiscriminatory access to maintenance and repair functions. See, e.g., AT&T Comments at 44; *Second BellSouth Louisiana Order*, ¶ 143; Willard Initial Decl., ¶¶ 21-22, 25.

¹⁷ The number of phone calls and the amount of time that it takes to clear up the confusion varies from case to case.

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SWBT does not deny that the LMOS updating problem results in misreporting of trouble report rates. In fact, SWBT acknowledges that unless the LMOS record is updated before the trouble report closes, a line designated as “disconnected” in LMOS will not be included in the performance measurements for the CLEC and instead will be captured in the measurement “for the former service provider of the account” – *i.e.*, SWBT. SWBT Reply Br. at 44; LMOS Reply Aff., ¶ 42. Yet, while it acknowledges that its own review of the embedded LMOS database found inaccuracies in nearly 10 percent of UNE-P LMOS records, SWBT nonetheless concludes that its analysis of the performance data “shows that any inaccuracies in LMOS for UNE-P orders – which SWBT has now implemented a number of processes to correct – has little impact, if any, on SWBT’s reported maintenance and repair performance results.”¹⁸

The “analysis” on which SWBT bases its claim that LMOS has had little impact on the accuracy of its reported performance data, however, is transparently unreliable. SWBT’s “analysis” is based on a series of assumptions that it simply applied to the reported data, rather than on an actual recalculation of all of the data for the performance measures in question after correction of the LMOS records.¹⁹ In view of these deficiencies, SWBT’s reported performance data (even as recalculated by SWBT) lends no support to its claim that it is in compliance with its OSS obligations. *See* AT&T Comments at 43-47. SWBT itself acknowledges that it has

¹⁸SWBT Reply Br. at 43-45. The Commission should give no weight to SWBT’s claim that its Local Operations Center has begun to implement a new process to ensure adequate reporting of performance data whenever a CLEC is unable to open a trouble report electronically due to an inaccurate LMOS record. *See* SWBT Reply Br. at 44; LMOS Reply Aff., ¶¶ 44-45. Since implementation began on May 4 – after comments on SWBT’s application were filed – consideration of the new process would be improper. Moreover, because implementation will not be completed until June even under SWBT’s own schedule, SWBT’s description of its new process amounts to little more than a promise to meet its Section 271 obligations in the future, which is irrelevant in these proceedings. *Id.*; *Ameritech Michigan Order*, ¶¶ 55, 179.

¹⁹SWBT Reply Br. at 45; LMOS Reply Aff., ¶ 49 & Att. C. SWBT’s “analysis” also failed to consider several performance measures that it now claims “should not have been affected by any inaccuracies in the LMOS line records” – even though, less than one month ago, SWBT advised the Texas PUC that these performance measures “utilize the LMOS database for reporting purposes.” *Compare* Willard Initial Decl., Att. 5 at 5 (SWBT’s April 19, 2001 comments filed with TPUC, listing Percent UNE-P Trouble Reports on the Completion Date (PM 35.1), Percent Missed Repair Commitments (PM 38), Mean Time to Restore (PM 39), and Percent Out of Service Less Than 24 Hours (PM 40) as performance measures that utilize the LMOS database for reporting purposes) *with* SWBT Reply Br. at 45 & n.38 (stating that SWBT’s analysis did not include these performance measurements). SWBT’s current claim that these measures are not affected would be true, however, only if there is no difference in the amount of time that it takes to process a trouble ticket and provide repair service through the manual process and the time required to do so when the trouble report is opened electronically – and, as previously stated, it cannot be assumed that this will always be the case. Of the measures that SWBT declined to analyze because of their alleged lack of impact, a genuine restatement of PM 35.1 is a particularly important component of determining the true impact of the LMOS failure. PM 35.1 was created in the 2000 six-month review before the TPUC in an effort to capture UNE-P provisioning failures that occur on the day of, and prior to, completion – failures that are not captured anywhere else in the performance measurements. Not only the “D” and “C” sequencing failures that SWBT claims to have corrected, but also the time lag between “D” and “C” order processing that SWBT admits will persist, would likely impact the CLEC’s ability to submit day-of-completion trouble reports for capture under PM 35.1.

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understated CLEC trouble report rates, while understating the corresponding rates for its own retail operations. AT&T believes that the reported data on the rates of troubles reported within 10 days for CLEC customers is substantially understated as a result of LMOS updating problems, particularly since AT&T recently discovered that many of its UNE-P business customers in Missouri have lost dial tone shortly after installation.²⁰

The LMOS updating problem causes competitive harm to CLECs in other ways. Even if, as SWBT suggests in its reply comments, SWBT's Local Operations Center can open electronically a trouble ticket reported manually by a CLEC without first correcting the LMOS record, the CLEC cannot determine the status of the trouble report electronically until after the LMOS record has been updated and the trouble report has been closed. Prior to that time, the CLEC can ascertain the status of the trouble report only through the cumbersome process of repeatedly contacting SWBT by telephone. In addition, if the LMOS record is not updated prior to the closure of the trouble report, the report will not be included in SWBT's reported data on trouble report rates for CLECs (and may be even be erroneously included in its reported data on trouble report rates for its own retail operations). *See Willard Initial Decl., Att. 3 at 349; Willard Reply Decl., Att. 1 at 3; SWBT Reply Br. at 44.*

The LMOS updating problem can also lead to "cramming" – the erroneous billing of a customer by a CLEC even after the customer has migrated to another carrier. AT&T, for example, uses SWBT's Toolbar Administration to determine whether a customer has migrated to another LEC. Since the Toolbar Administration accesses AECN information in LMOS to determine the current "owner" of the circuit, an error in the updating of an LMOS record may cause a particular LEC to be listed as the owner even after the customer has switched to another carrier. *See LMOS Reply Aff., ¶ 12 n.1* (stating that SWBT's Toolbar Trouble Administration interfaces with LMOS). That appears to be the cause of numerous allegations of "cramming" that have been made by former customers in Texas against AT&T, which, in reliance on the Toolbar, continued to bill them even after a migration because it still believed that it was the "owner" of the facilities in question. The lack of accurate information in SWBT's database regarding migrations of customers to other LECs clearly has an adverse effect on customers and on the CLECs' ability to compete, since (as AT&T's experience illustrates) the customer not only will be overbilled, but will blame the problem on the CLEC. *See SBC Texas Order, ¶ 193* (recognizing that a BOC's failure to provide loss notification reports describing such migrations "may impact customers and impede a competitive carrier's ability to compete").²¹

²⁰ The precise number of AT&T's UNE-P customers in Missouri who have lost dial tone has not yet been determined, since AT&T and SWBT have not yet reconciled their respective data. AT&T and SWBT are scheduled to meet today to discuss these outages and begin discussing data reconciliation. However, AT&T's data strongly indicates that the loss of dial tone has been much more extensive than PM 35 currently reflects.

²¹ SWBT contends that, according to the CLEC Handbook, when a CLEC submits an electronic trouble report via TBTA, and the service orders have not yet posted, the CLEC will receive a response stating "Our records indicate this Telephone Number is not part of your User Profile, do you wish to continue?" – and the CLEC then is given the

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II. SWBT'S ERRONEOUS REPORTING OF FLOW-THROUGH IS DENYING CLECs NONDISCRIMINATORY ACCESS TO ITS OPERATIONS SUPPORT SYSTEMS.

By itself, the evidence that the LMOS updating problem denies CLECs parity of access to maintenance and repair functions refutes SWBT's assertion that its OSS satisfy the requirements of Section 271. *See* SWBT Reply Br. at 39. The denial of nondiscriminatory access is compounded, however, by SWBT's failure accurately to report its OSS performance.

SWBT has provided no adequate response to AT&T's evidence that SWBT has failed to accurately report its OSS performance. In addition to misstating performance data for maintenance and repair functions as a result of the LMOS updating problem, SWBT has overstated the degree to which CLEC orders are processed electronically, rather than with manual intervention. *See* AT&T Comments at 47-52. SWBT attempts to cast the flow-through issue as a mere "difference of opinion" regarding the meaning of the business rule for the flow-through performance measurement (PM 13), which requires that the denominator include "MOG eligible orders and orders that would flow through EASE."²² SWBT is incorrect.

SWBT contends that it has interpreted the business rule for PM 13 "to require it, in calculating flow through for UNE and UNE-P orders, to include in the denominator only those CLEC orders that are MOG eligible," because UNE and UNE-P orders do not flow through EASE, which accepts only resale orders. SWBT Reply Br. at 46; *see also* Dysart Reply Aff., ¶¶ 36-38. SWBT's newly professed interpretation of the business rule, however, is inconsistent with its prior conduct and statements that reflect a recognition that the scope of the business rule is far broader. For example, in response to a data-flow collection document for performance measurements that SWBT had prepared in 1999 to reflect the current business rule for PM 13, CLECs stated:

To counter the argument that defining the denominator for this measure in terms of MOG-eligible orders was too narrow and left

options of either clicking either "Yes" (which enables it to create an electronic trouble report on a record that does not match its user profile) or "No" (which cancels the transaction). LMOS Reply Aff., ¶ 40. Staff has asked whether AT&T has received such error messages. AT&T has received the message described by SWBT *only* in connection with new installations (and only 2 or 3 times per week). It has not received such messages when creating trouble tickets electronically on migrations, where AT&T must use a manual process to open a trouble ticket when it cannot do so electronically. *See id.*, ¶ 39 (stating that CLEC "should submit a manual trouble report with the LOC" when it receives the message "This TN has been disconnected or ported out. No information available" on a UNE-P trouble report).

²² *See* SWBT Reply Br. at 46-48; Dysart Reply Aff., ¶¶ 39; AT&T Comments at 47-49. Despite SWBT's attempt to cast the issue as one involving only a "difference of opinion," the TPUC – in reliance on the recommendation of its Staff, which expressed surprise at SWBT's recent disclosure of its interpretation – today ordered an audit of SWBT's PM 13 data. *See* Willard Initial Decl., ¶¶ 38, 43.

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too much to SWBT discretion, SWBT broadened the business rule and the calculation for this measure to include in the denominator both MOG eligible orders and orders that would flow through EASE. *See* September 23 Matrix at 20. However, this mid-level document continues to describe SWBT's data collection for CLEC orders over EDI and LEX as MOG-eligible orders only.

SWBT must revise this description to make clear that it will include in the denominator CLEC order types that would flow through EASE for SWBT retail operations, regardless of whether they are MOG eligible. More importantly, SWBT should be required to demonstrate, to Staff and Telcordia, that they in fact calculate this measure in that fashion. Certainly SWBT's own description of its data collection process limits this measure to MOG eligible orders, contrary to the premise on which SWBT has persuaded the Commission to approve its business rule.²³

In response, SWBT neither disputed the CLECs' interpretation of the scope of the business rule nor suggested that it would limit the "orders that would flow through EASE" to resale orders. Instead, SWBT stated:

SWBT is still working on the implementation of this measurement. *The current plan is to classify the EASE orders that are not MOG eligible as MOG eligible in LASR. This will allow them to be counted in the denominator.* This would require no change to the mid level document.²⁴

In addition, at a workshop held before the Texas PUC on October 1, 1999 (in dispute resolution proceedings between SWBT and AT&T), SWBT made clear that it was fully aware that the new business rule for PM 13 required that the denominator include *any* order which would "flow through EASE" if submitted by a SWBT retail representative – regardless of whether the order is MOG-eligible. Mr. Dysart, SWBT's principal witness on the PM 13 issue in the instant proceeding, discussed "how we would handle incorporating the Commission change in the business rule where we're looking at not only MOG-eligible but MOG-eligible plus. Things that will flow through EASE but don't flow through EDI or LEX."²⁵ Mr. Dysart

²³ Combined Matrix of AT&T and CLEC Coalition, MCI, SWBT, and Staff Comments on SWBT September 16, 1999 Data Collection Flow Descriptions, at 12, submitted September 29, 1999 by SWBT in TPUC Project Nos. 16251 and 20000 (attached hereto as Attachment 1).

²⁴ *Id.* (emphasis added).

²⁵ Transcript of workshop held before Texas PUC in Docket No. 21000 on October 1, 1999, at 22-23 (Dysart) (attached hereto as Attachment 2).

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stated that SWBT was “trying to identify the individual services that flow through EASE,” and was considering causing its LASR system to recognize those orders “that flow through EASE and don’t flow through EDI as MOG-eligible for the purposes of the measurement to get the denominator. But right now we don’t particularly know about that.”²⁶ Mr. Dysart never indicated that SWBT was considering limiting the “orders that would flow through EASE” in the denominator to resale orders.

At the time Mr. Dysart made these statements, SWBT was fully aware that AT&T had changed its entry strategy for the Texas local exchange market from resale to an exclusively UNE-P strategy and had migrated its embedded base of resale customers to UNE-P. Thus, it would have been extremely misleading for SWBT to represent to the TPUC and to AT&T that it was working to determine what orders “would flow through EASE” for purposes of the business rule, without disclosing that it did not intend to apply that change to UNE-P orders. To the contrary, SWBT’s statements show that from the time the business rule was implemented, SWBT was aware that the change imposed a broader obligation. SWBT’s current attempt to cast the issue as one of a difference in interpretation is simply a rationalization for its refusal to comply with an obligation that it recognized nearly two years ago.

SWBT attempts to minimize the lack of parity in the flow-through rates of CLECs and SWBT by asserting that “there is no significant difference in Missouri flow-through performance results for EDI and only a minor difference in flow-through performance results for LEX.” Dysart Reply Aff., ¶ 41. This assertion is highly misleading, since the number of orders submitted via LEX is vastly greater than that submitted via EDI. In March 2001, for example, CLECs submitted 12,116 orders via LEX but only 1,242 orders via EDI. *Id.*, Att. B at B-46 (PM 13-02 and PM 13-03). SWBT’s reported flow-through data show parity violations for LEX for 5 of the 6 months ending in March 2001, and its restated data show parity violations for all 6 months. In fact, the restated data show that flow-through rates for LEX have been below those of SWBT’s retail operations for 11 consecutive months. *Id.*, ¶ 42 & Att. B at B-46.

III. THE ERNST & YOUNG REPORT

The lame arguments that SWBT offers in defense of the “audit” performed by Ernst & Young only serve to confirm the evidence that both the audit and the reports of Ernst & Young are fundamentally flawed.²⁷ For example, SWBT’s assertion that it disclosed its interpretation of the business rule for PM 13 (flow-through rates) to Ernst & Young, and that Ernst & Young found SWBT’s interpretation to be reasonable, is entitled to no weight. *See* Kelly Reply Aff., ¶ 10. Ernst & Young did not refer to that interpretation in any of the reports or supporting documents that it made available to CLECs. Moreover, at the Technical Conference

²⁶*Id.*

²⁷*See* SWBT Reply Br. at 73-74; Kelly Reply Aff., ¶¶ 2-12; Dysart Reply Aff., ¶¶ 65-73; AT&T Comments at 51-52; Willard Initial Decl., ¶¶ 44-61.

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held before the MPSC on January 30, Ernst & Young was unable to answer repeated questions from AT&T and Birch Telecom as to whether SWBT had properly implemented the business rule for PM 13 in a manner that captured all UNE-P “orders that would flow through EASE” in the denominator, as the rule requires.²⁸ Nor did Ernst & Young indicate at the Technical Conference that SWBT had adopted the interpretation of the business rule that it now claims. That is why SWBT’s announcement of its current interpretation of the business rule at the April 4-5 workshop before the Texas PUC came as a surprise to both AT&T and to the TPUC Staff. Willard Initial Aff., ¶ 38. In view of these facts, SWBT’s suggestion that Ernst & Young reviewed and approved its interpretation of the PM 13 business rule is simply not credible.

Furthermore, although SWBT does not deny that the Ernst & Young reports were wholly conclusory in nature and devoid of detail, it rationalizes that (1) the reports were consistent with the standards of the AICPA; and (2) Ernst & Young filed a “separate detailed scope and approach document that laid out the approach utilized to test and arrive at its conclusions.” Kelly Reply Aff., ¶ 4. The “detailed scope and approach” document to which SWBT refers, however, provided no details of the work that Ernst & Young performed at each step of the process it followed, the findings that it made at each step, the precise data that it used, and the facts on which it based its conclusions. *See* Dysart Initial Aff., Att. S.

In response to AT&T’s evidence that Ernst & Young used a materiality standard so lax that it disregarded performance measurement errors that could significantly affect a CLEC’s ability to compete, SWBT asserts that Ernst & Young “ascertained whether discrepancies, although considered immaterial using the above materiality thresholds, impacted parity or benchmark performance.” *See id.*, ¶¶ 50, 53; Kelly Reply Aff., ¶ 8. SWBT’s assertion, however, is inconsistent with the discussion of the materiality standard by Ernst & Young at the Technical Conference held before the MPSC. Willard Initial Decl., ¶ 53. It is also inconsistent with Ernst & Young’s report on SWBT’s compliance with its business rules. Although it found that SWBT had erroneously excluded certain orders from performance data as CLEC-caused due dates (when, in fact, the missed due dates were caused by SWBT), Ernst & Young simply concluded that “The impact of this restatement is expected to be negligible on aggregate results.” Dysart Initial Aff., Att. Q at Q-7. When SWBT restated its performance data to correct these “non-material” errors, however, the effect was to convert a report of compliance with the parity standard to a report of non-compliance for seven separate categories of PM 29 (Percentage of SWBT-caused due dates).

Finally, SWBT justifies the inability of CLECs to have access to Ernst & Young’s workpapers by repeating its previous assertions that the workpapers contained material that was highly proprietary to SWBT. Dysart Reply Aff., ¶ 68; Kelly Reply Aff., ¶ 6. This explanation borders on the frivolous, since the confidentiality of the information could have been protected

²⁸Ernst & Young was asked such questions because PM 13 was one of the performance measurements that it was required to examine as part of its audit to determine the compliance of SWBT’s reported data with the business rules applicable to those measurements. Willard Initial Aff., ¶ 45.

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through application of the protective order in effect in the MPSC proceedings (with any modifications deemed necessary) or the redaction of the information from the workpapers prior to their production. Willard Initial Decl., ¶ 49 & n.39. SWBT's rationalization that the MPSC Staff *was* given access to the workpapers (Kelly Reply Aff., ¶ 6) is equally flawed, since it only serves to demonstrate that the workpapers could be produced under suitable assurances of confidentiality. Moreover, by allowing only the MPSC Staff to have access to the workpapers, SWBT denied CLECs the details that they needed to permit a determination of the accuracy and adequacy of the audit. *See* Willard Initial Aff., ¶ 49.²⁹

Because of their lack of access to Ernst & Young's workpapers; CLECs were unable to test the conclusions of the Ernst & Young reports to determine whether a proper validation was performed. *See* Willard Initial Decl., ¶¶ 47-49. Even though the MPSC hired Ernst & Young "to evaluate and verify that SWBT was appropriately capturing and processing the data it was using to generate performance measure results" (MPSC Reply Comments at 13), the MPSC's refusal to allow such access on the grounds that the workpapers contained proprietary information precluded any reliable determination of whether Ernst & Young had adequately performed the evaluation and verification.

In the absence of an independent third-party audit whose adequacy has been fully tested and demonstrated, the Commission is left in this proceeding with only the self-serving statements made in SWBT's application and supporting affidavits as "evidence" of SWBT's actual compliance with Section 271. The Commission should not grant a Section 271 application on such a basis.

Without an adequate, comprehensive verification of the representations made by SWBT, the Commission has no assurance that SWBT has in fact met the requirements of Section 271. This is particularly true in view of SWBT's recent admission that three different reply affidavits that it provided in support of its Section 271 application for Kansas and Oklahoma contained "inaccurate" information regarding the access it provided to loop qualification or loop access make-up information – and that SWBT therefore did not meet that requirement of the competitive checklist until months after the Commission approved its application (if then).³⁰ The Commission expressly relied on SWBT's false and misleading representations in finding that

²⁹ Apparently defending the nondisclosure of Ernst & Young's workpapers to the CLECs, the MPSC asserts that Ernst & Young was asked "few questions" at the January 30, 2001, Technical Conference that would have required disclosure of proprietary information. MPSC Reply Comments at 14. The MPSC misses the point. The CLECs asked "few questions" that would have required Ernst & Young to disclose or discuss proprietary information because, having been denied access to the Ernst & Young workpapers (on the ground that they contained proprietary information), they were unable to ask detailed, specific questions about the contents of the workpapers. Had CLECs been permitted such access, they undoubtedly would have asked numerous questions involving material in the workpapers classified as proprietary. Thus, the lack of questions cited by the MPSC is a reflection of the lack of access granted to CLECs, not an indication that the lack of access had no impact on the CLECs' ability to determine the adequacy of Ernst & Young's audit.

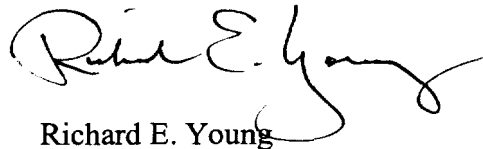
³⁰ *See ex parte* letter from Edwardo Rodriguez, Jr. (SBC) to Magalie Roman Salas, dated April 13, 2001, at 1-3.

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SWBT met the requirements of the checklist, rejecting the evidence presented by CLECs that contradicted the representations. *SBC Kansas/Oklahoma Order*, ¶ 129 & n.355. In doing so, the Commission accepted representations that were unsupported by adequate commercial experience or third-party testing. Although SWBT presented an Ernst & Young in support of its Kansas/Oklahoma application, Ernst & Young had failed to uncover SWBT's false statements as to the capabilities and performance of its OSS. In fact, Ernst & Young did not even observe SWBT's loop qualification processes.

The recent admissions by SWBT illustrate why the Commission must insist that Section 271 applicants show through adequate commercial data and/or adequate third-party verification that their OSS work as alleged. Simple reliance on a BOC's word that it has complied with the checklist is insufficient. Where, as here, the purported "audit" by the third party is inadequate and commercial data fails to support the Section 271 applicant's representations, the application must be rejected.

Respectfully submitted,



Richard E. Young

Attachments

cc: G. Remondino
M. Carey
B. Olson
U. Onyeije
T. Navin

ATTACHMENT 1

September 29, 1999

Ms. Katherine D. Farroba
Mr. John Mason
Mr. Nara Srinivasa
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, TX 78701

Re: Project No. 16251 – *Investigation of Southwestern Bell Telephone Company's Entry Into the InterLATA Telecommunications Market*

Re: Project No. 20000 - *Operations Support Testing Relating To The Investigation Into Southwestern Bell Telephone Company's Entry Into The InterLATA Telecommunications*

Dear Ms. Farroba, Mr. Mason and Mr. Srinivasa:

As requested by the Commission, attached please find SWBT's response to the parties' comments on SWBT's Data Flow Collection Document for Performance Measurements (Mid Level Document). The comments and SWBT's responses have been formatted in matrix form for the convenience of the parties. Also enclosed is an Attachment A reflecting a red lined version of the Mid Level Document with language changes acceptable to SWBT and an Attachment B titled Projected Data Availability For New SWBT Performance Measurements.

A copy of these documents is being provided electronically to Staff and the parties to this proceeding. If there are any questions regarding this matter, please let me know.

Very truly yours,

Thomas J. Horn
General Attorney

Attachments

cc: Parties of Record (via e-mail)
Howard Siegel

**Combined Matrix of AT&T and CLEC Coalition, MCI, SWBT and Staff Comments
on SWBT September 16, 1999 Data Collection Flow Descriptions**

Performance Measure(s) Pre-Order/Ordering	Comment and Proposed Alternative Language	SWBT Comment and Proposed Language	Staff Comments
PM 1	<p><u>AT&T and CLEC Coalition</u></p> <p>Point "A" and point "D" in the text do not appear on the diagram.</p> <p>As AT&T and the CLEC Coalition understand this measure, SWBT measures the stop time when the data reaches a point where it is available to the CLEC, rather than when the data reaches the CLEC. The Datagate description should be modified to identify that location (LSP Access service or other?) and to define the stop time in terms of availability to the CLEC, assuming this is true, rather than transmission "to" the CLEC.</p> <p>There is no interval stated that SWBT has set in place to maintain the supposed sub-second queue before the measurement starts. There should be a standard set and SWBT should have processes in place to maintain that standard. Some further detail should be provided regarding the configuration management and monitoring that SWBT says is employed to avoid delay in queueing.</p> <p>The further disaggregation for CSR responses required under version 1.6 of the business rules, including the reporting by lines (rather than WTNs) for PBX based customers with DID or high capacity business trunks, as described in the matrix approved by the Commission September 23, 1999 (hereafter the "September 23 Matrix") needs to be described in this document.</p> <p>Proposed Language</p> <p>Under Datagate:</p> <p>4th ¶: Response time ends at the transmission of all data to the <u>(name system or facility)</u> (point B), where it is available to the CLEC.</p> <p>Plus other changes recommended in AT&T comments.</p>	<p><u>SWBT Response To AT&T and CLEC Coalition:</u></p> <p>Points "A" and "D" do appear in the diagram.</p> <p>The mid-level document states the end timestamp is taken at the completion of the transmission of the data. It does not imply that the data is received by the CLEC. That is why Point "B" is within the SWBT LRAF. SWBT cannot control or be responsible for anything that happens beyond the LRAF. "Transmission to" is correct.</p> <p>This type of data is not appropriate in the mid-level document. These processes are fluid and configurable. SWBT, CLECs and TPUC Staff discussed this mid-level flow in detail on 9/10/99. No data such as this was agreed to in that discussion. Telcordia observed evidence of the current configuration management during the Performance Measurement validation activities as part of the OSS Test.</p> <p>The data flow for CSR is no different for the various levels of disaggregation as stated in the matrix approved on 9/23/99. No further description is necessary.</p> <p>AT&T's proposed language is incorrect. The wording as written in the mid-level document is correct.</p>	

**Combined Matrix of AT&T and CLEC Coalition, MCI, SWBT and Staff Comments
on SWBT September 16, 1999 Data Collection Flow Descriptions**

Performance Measure(s)	Comment and Proposed Alternative Language	SWBT Comment and Proposed Language	Staff Comments
PM 13	<p><u>AT&T and CLEC Coalition</u></p> <p>To counter the argument that defining the denominator for this measure in terms of MOG-eligible orders was too narrow and left too much to SWBT discretion, SWBT broadened the business rule and the calculation for this measure to include in the denominator both MOG eligible orders and orders that would flow through EASE. See September 23 Matrix at 20. However, this mid-level document continues to describe SWBT's data collection for CLEC orders over EDI and LEX in terms of MOG-eligible orders only.</p> <p>SWBT must revise this description to make clear that it will include in the denominator CLEC order types that would flow through EASE for SWBT retail operations, regardless of whether they are MOG eligible. More importantly, SWBT should be required to demonstrate, to Staff or Telcordia, that they in fact calculate this measure in that fashion. Certainly SWBT's own description of its data collection process limits this measure to MOG eligible orders, contrary to the premise on which SWBT has persuaded the Commission to approve its business rule. SWBT also now should be required to provide CLECs with a complete and current list of the order types that are MOG eligible and the additional order types that would flow through EASE.</p> <p>There is no explanation of how supps are treated for this measurement.</p> <p>SWBT maintains that improper rejects will count against it on flow-through statistics. See September 23 Matrix at 24. This should be made explicit in the data collection process document. It should state that SWBT will report rejection of error-free CLEC orders as failed pass-through occurrences, i.e., the order will be included in the denominator of the measure but not in the numerator.</p>	<p><u>SWBT Response To AT&T and CLEC Coalition:</u></p> <p>SWBT is still working on the implementation of this measurement. The current plan is to classify the EASE orders that are not MOG eligible as MOG eligible in LASR. This will allow them to be counted in the denominator. This would require no change to the mid level document.</p> <p>As in EASE, supplements after distribution are not flow-through candidates.</p> <p>SWBT addressed a specific occurrence referenced by AT&T on an incident that occurred on July 14th. This in fact was accounted for in % flow through since the order was created but not distributed due to the reject due to invalid due date. However, SWBT was not implying that all rejects returned in error would be captured in flow through. Each instance needs to be evaluated on a case by case basis.</p>	
PM 14	<p><u>MCI Comments:</u></p> <p>The language states "the sample is not a statistical sample; however, it does reflect an accurate representation of customer products and services". How can the sample be an accurate customer reflection if it is not statistical?</p>	<p><u>SWBT Response To MCI:</u></p> <p>The purpose of the audit is to correct potential billing errors prior to distribution of bills. The bills chosen are those that have the wide variety of services which provides SWBT an opportunity to correct any billing problems in the shortest period of time. This is not designed to be a statistical sample used to determine error rates. This was discussed and approved by the DOJ and was discussed</p>	

ATTACHMENT 2

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
PUBLIC UTILITY COMMISSION OF TEXAS
AUSTIN, TEXAS

INFORMAL DISPUTE RESOLUTION FOR)
ISSUES RELATING TO OPERATIONAL)
SUPPORT SYSTEMS)

DOCKET NO.
21000

SUMMARY OF PROCEEDINGS
FRIDAY, OCTOBER 1, 1999

BE IT REMEMBERED THAT at 2:30 p.m., on
Friday, the 1st day of October, 1999, the
above-entitled matter came on for hearing at
Doubletree Guest Suites, 303 West 15th Street,
Bluebonnet Room 2, Austin, Texas, 78701, before
HOWARD SIEGEL, Administrative Law Judge; and the
following proceedings were reported by Steven
Stogel, a Certified Shorthand Reporter of:

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1 P R O C E E D I N G S
2 FRIDAY, OCTOBER 1, 1999
3 (2:33 p.m.)

4 JUDGE SIEGEL: Let's go on the
5 record. This is Docket 21000. We're going to
6 get a summary on the record for our discussions
7 of today. If we can, let's get the court
8 reporter to read off the list of attendees.

9 THE REPORTER: The following
10 people were in attendance for AT&T: Sharon
11 Mullin, Michelle Bourianoff, Sarah DeYoung, Pat
12 Cowlshaw, David Kettell, and Dinah Matlock.

13 The following people were in attendance
14 for Southwestern Bell: Rick Bautisto, Bob Gale,
15 Jerry Gordon, Tom Horn, Randy Dysart, Rhonda
16 Huser, Candy Conway, and James Ellis.

17 JUDGE SIEGEL: Out of today, we
18 have a number of action items, and we have --
19 there are some areas we just want to summarize
20 some of the knowledge gained.

21 Randy, do you want to start reading off
22 some of the action items?

23 MR. DYSART: Yes. This is Randy
24 Dysart with Southwestern Bell. The first item
25 we discussed today had to do with changes on the

1 pull the raw data on the 13/16 exclusion, I
2 think we'll be able to figure some of that out.
3 But right now, I don't think we can.

4 MR. COWLISHAW: And while we're on
5 this one, I think we -- the measures we're
6 talking about would be the I-report measure
7 for -- that's applicable to UNE loop and port
8 combinations, and the situation is that there
9 will not be history available on UNE-P troubles
10 before August 1999, I believe. That's
11 Southwestern Bell's report, I believe.

12 MR. DYSART: That's correct on
13 PM 35.

14 I guess the next issue we discussed was
15 the flow-through measure. We talked about what
16 types of orders are MOG-eligible and also what
17 types of orders flow through EASE but do not
18 flow through EDI or LEX. We've provided a list
19 of those orders that are MOG-eligible. The
20 request was made from AT&T to provide a list of
21 those that are -- that flow-through EASE but do
22 not flow through EDI, and we said we would
23 investigate that, providing that, and
24 potentially post it on the web site.

25 We've talked a little bit about, for

1 the Measurement 13, how we would handle
2 incorporating the Commission change in the
3 business rule where we're looking at not only
4 MOG-eligible but MOG-eligible plus. Things that
5 will flow through EASE but don't flow through
6 EDI or LEX. Southwestern Bell identified --
7 we're working on that, trying to identify the
8 individual services that flow through EASE. A
9 potential way we might do that in LASR, L-A-S-R,
10 is consider those that flow through EASE and
11 don't flow through EDI as MOG-eligible for the
12 purposes of the measurement to get the
13 denominator. But right now we don't
14 particularly know about that.

15 Then we discussed a problem on July
16 14th that AT&T had with some rejects that
17 weren't counted, and Southwestern Bell had said
18 that some of these measurements, at least, were
19 picked up in the flow-through measurements.
20 There was some discussion around that where that
21 came into a bit of question, and Southwestern
22 Bell said they would go back and try to get more
23 information on that to determine whether or not
24 that was truly correct.

25 That's all I have on that. Do y'all

1 have anything else?

2 MS. BOURIANOFF: Just specifically
3 the question on the last point about the July
4 14th incident. Southwestern Bell represented
5 that the 2,100 rejects on July 14th showed up on
6 Performance Measurement 13, and we were asking
7 you to go back and check that, because the
8 performance measurement data reported for July
9 shows only 1,800 rejects for that month.

10 MR. DYSART: Right.

11 MS. BOURIANOFF: So we asked you
12 to check and see if those 2,100 rejects were
13 indeed all included or some included or how were
14 they addressed. —

15 MR. DYSART: That's correct. The
16 next issue was on post-FOC rejects. I believe
17 we've already talked about that.

18 MS. DEYOUNG: Right. The other
19 thing we talked about here was trying to
20 understand where -- or how the FOCs were going
21 to be measured for UNE loop plus LNP orders.
22 Then later on in the agenda, we distinguished
23 for both UNE loop and LNP -- stand-alone LNP and
24 new loop orders which measures.

25 JUDGE SIEGEL: Are you ready to